

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**ANGELA WEGENER, Mother, Guardian
and Next Friend, et al.,**

Plaintiff,

VS.

DEAN E. JOHNSON, M.D.,

Defendant.

8:04CV347

AMENDED FINAL PROGRESSION ORDER

This matter is before the court following a conference with counsel on September 12, 2005. George H. Moyer, Jr. represented the plaintiff and William M. Lamson represented the defendant, making a joint oral motion to amend the court's Final Progression Order (#10).

IT IS ORDERED:

1. **Deposition Deadline.** All depositions, whether or not they are intended to be used at trial, shall be completed by **December 30, 2005**. All interrogatories, requests for admission and requests for production or inspection, whether or not they are intended to be used at trial, shall be served sufficiently early to allow rule time response before that date. Counsel may stipulate to extensions of time to respond to discovery requests in accordance with Fed. R. Civ. P. 29, as amended, but such extensions shall not extend any of the dates in this order; any requests for extensions of any of the deadlines herein shall be made by appropriate motion and order.

2. **Pretrial Disclosures:** Pursuant to Fed. R. Civ. P. 26(a)(3), each party shall provide to all other parties the following information regarding the evidence that it may present at trial other than solely for impeachment purposes as soon as practicable **but not later than the date specified:**

A. Nonexpert Witnesses - On or before January 16, 2006: The name, address and telephone number of each witness, separately identifying those whom the party expects to present and those whom the party may call if the need arises.

B. Deposition Testimony and Discovery - On or before: January 16, 2006: 1) The portions of each deposition, designated by page and line, that it intends to offer and 2) each discovery response of another party it intends to offer. Such designations and any objections thereto shall also be included in the final pretrial conference order. See NECivR 16.2.

C. Trial Exhibits - On or before January 16, 2006: A list of all exhibits it expects to offer by providing a numbered listing and permitting examination of such exhibits. The parties shall also designate on the list those exhibits it may offer only if the need arises.

D. Waiver of Objections: Any objections to the use of witnesses, deposition designations, discovery responses, or exhibits shall be listed in the pretrial order. Failure to list objections (except those under Fed. R. Evid. 402 and 403) shall be deemed waived, unless excused by the court for good cause shown.

E. Filing of Disclosures: The filing of pretrial disclosures required by Fed. R. Civ. P. 26(a)(3) shall be deemed filed at the time of the filing of the Order on Final Pretrial Conference in this matter.

3. Motions in Limine.

A. Daubert Motions. Any motion *in limine* challenging the admissibility of testimony of an expert witness under Rule 702, Fed. Rules of Evidence shall be filed **on or before January 20, 2006**, in the absence of which any objection based upon said rule shall be deemed waived. See *Kumho Tire Co., Ltd. v. Carmichael*, 526 U.S. 137 (1999); *Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579 (1993).

B. Any other motions *in limine* shall be filed not later than **January 20, 2006**.

4. The Final Pretrial Conference with the undersigned magistrate is set for **January 23, 2006 at 1:30 P.M.**, in chambers, Suite 2210, Roman L. Hruska United States Courthouse, 111 South 18th Plaza, Omaha, Nebraska. The final pretrial conference shall be attended by lead counsel for represented parties. Counsel shall complete prior to the

pretrial conference, all items as directed in NECivR 16.2. By the time of the pretrial conference, full preparation for trial shall have been made so that trial may begin at any time during the session indicated below.

5. **A Jury trial** is set to commence **at 8:30 a.m. on February 6, 2006**, in Omaha, Nebraska, before the **Honorable Laurie Smith Camp**.

6. **Motions to Alter Dates.** All requests for changes of date settings shall be directed to the undersigned magistrate judge by appropriate motion.

DATED: September 12, 2005.

BY THE COURT:

**s/ F.A. Gossett
United States Magistrate Judge**